

103^D CONGRESS
2^D SESSION

H. R. 4560

To provide the consent of Congress to the Northeast Interstate Dairy Compact.

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 1994

Mr. OLVER (for himself, Mrs. JOHNSON of Connecticut, Mr. NEAL of Massachusetts, Mr. ANDREWS of Maine, Mr. BLUTE, Ms. DELAURO, Mr. GEJDENSON, Mr. KENNEDY, Mrs. KENNELLY, Mr. MACHTLEY, Mr. MARKEY, Mr. MCHUGH, Mr. MEEHAN, Mr. REED, Mr. SANDERS, Ms. SNOWE, Mr. STUDDS, Mr. SWETT, Mr. TORKILDSEN, Mr. ZELIFF, and Mr. FRANKS of Connecticut) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide the consent of Congress to the Northeast Interstate Dairy Compact.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CONGRESSIONAL CONSENT.**

4 That Congress hereby consents to the Northeast
5 Interstate Dairy Compact entered into between the States
6 of Vermont, New Hampshire, Maine, Connecticut, Rhode
7 Island, and Massachusetts, which Compact is substantially
8 as follows:

1 ARTICLE I. STATEMENT OF PURPOSE,
2 FINDINGS AND DECLARATION OF POLICY
3 **§1. STATEMENT OF PURPOSE, FINDINGS AND**
4 **DECLARATION OF POLICY**

5 The purpose of this Compact is to recognize by con-
6 stitutional prerequisite the interstate character of the
7 northeast dairy industry and to form an interstate Com-
8 mission for the northeast region. The mission of the Com-
9 mission is to take such steps as are necessary to assure
10 the continued viability of dairy farming in the northeast,
11 and to assure consumers of an adequate, local supply of
12 pure and wholesome milk.

13 The participating States find and declare that the
14 diary industry is the paramount agricultural activity of the
15 northeast. Dairy farms, and associated suppliers, market-
16 ers, processors and retailers, are an integral component
17 of the region's economy. Their ability to provide a stable,
18 local supply of pure, wholesome milk is a matter of great
19 importance to the health and welfare of the region.

20 The participating States further find that dairy
21 farms are essential to the region's rural communities and
22 character. The farms preserve open spaces, sculpt the
23 landscape and provide the land base for a diversity of rec-
24 reational pursuits. In defining the rural character of our

1 communities and landscape, dairy farms also provide a
2 major draw for our tourist industries.

3 By entering into this Compact, the participating
4 States affirm that their ability to regulate the price which
5 northeast dairy farmers receive for their product is essen-
6 tial to the public interest. Assurance of a fair and equitable
7 price for dairy farmers ensures their ability to provide
8 milk to the market and the vitality of the northeast dairy
9 industry, with all the associated benefits.

10 Recent, dramatic price fluctuations, with a pro-
11 nounced downward trend, threaten the viability and stabil-
12 ity of the northeast dairy region. Historically, individual
13 State regulatory action has been an effective emergency
14 remedy available to farmers confronting a distressed mar-
15 ket. The Federal order system, implemented by the Agri-
16 cultural Marketing Agreement Act of 1937, establishes
17 only minimum prices for dairy products, without preempt-
18 ing the power of States to regulate milk prices above the
19 minimum levels so established. Based on this authority,
20 each State in the region has individually attempted to im-
21 plement at least 1 regulatory program in response to the
22 current dairy industry crisis.

23 In today's regional dairy marketplace, cooperative,
24 rather than individual State action may address more ef-
25 fectively the market disarray. Under our constitutional

1 system, properly authorized, States acting cooperatively
2 may exercise more power to regulate interstate commerce
3 than they may assert individually without such authority.
4 For this reason, the participating States invoke their au-
5 thority to act in common agreement, with the consent of
6 Congress, under the Compact clause of the Constitution.

7 In establishing their constitutional regulatory author-
8 ity over the region's fluid milk market by this Compact,
9 the participating States declare their purpose that this
10 Compact neither displace the Federal order system nor en-
11 courage the merging of Federal orders. Specific provisions
12 of the Compact itself set forth this basic principle.

13 Designed as a flexible mechanism able to adjust to
14 changes in a regulated marketplace, the Compact also con-
15 tains a contingency provision should the Federal order
16 system be discontinued. In that event, the interstate Com-
17 mission is authorized to regulate the marketplace in re-
18 placement of the order system. This contingent authority
19 does not anticipate such a change, however, and should
20 not be so construed. It is only provided should develop-
21 ments in the market other than establishment of this Com-
22 pact result in discontinuance of the order system.

1 ARTICLE II. DEFINITIONS AND RULES OF
2 CONSTRUCTION

3 **§ 2. DEFINITIONS**

4 For the purpose of this Compact, and of any supple-
5 ment or concurring legislation enacted pursuant thereto,
6 except as may be otherwise required by the context:

7 (1) “Commission” means the Commission es-
8 tablished by this Compact.

9 (2) “Compact” means this interstate Compact.

10 (3) “Region” means the territorial limits of the
11 States which are or become parties to this Compact.

12 (4) “Participating State” means a State which
13 has become a party to this Compact by the enact-
14 ment of concurring legislation.

15 (5) “Regulated area” means any area within
16 the region governed by and defined in regulations es-
17 tablishing a Compact over-order price or Commis-
18 sion marketing order.

19 (6) “Pool plant” means any milk plant located
20 in a regulated area.

21 (7) “Partially regulated plan” means a milk
22 plant not located in a regulated area but having
23 Class I distribution within such area, or receipts
24 from producers located in such area. Commission
25 regulations may exempt plants having such distribu-

1 tion or receipts in amounts less than the limits de-
2 fined therein.

3 (8) “Compact over-order price” means a mini-
4 mum price required to be paid to producers for
5 Class I milk established by the Commission in regu-
6 lations adopted pursuant to sections 9 and 10 of this
7 Compact, which is above the price established in
8 Federal marketing orders or by State farm price
9 regulation in the regulated area. Such price may
10 apply throughout the region or in any part or parts
11 thereof as defined in the regulations of the Commis-
12 sion.

13 (9) “Commission marketing order” means regu-
14 lations adopted by the Commission pursuant to sec-
15 tions 9 and 10 of this Compact in place of a termi-
16 nated Federal marketing order or State dairy regu-
17 lation. Such order may apply throughout the region
18 or in any part or parts thereof as defined in the reg-
19 ulations of the Commission. Such order may estab-
20 lish minimum prices for any or all classes of milk.

21 (10) “Milk” means the lacteal secretion of cows
22 and includes all skim, butterfat, or other constitu-
23 ents obtained from separation or any other process.
24 The term is used in its broadest sense and may be

1 further defined by the Commission for regulatory
2 purposes.

3 (11) “Class I milk” means milk disposed of in
4 fluid form or as a fluid milk product, subject to fur-
5 ther definition in accordance with the principles ex-
6 pressed in subsection (b) of section 3.

7 (12) “State dairy regulation” means any State
8 regulation of dairy prices, and associated assess-
9 ments, whether by statute, marketing order or other-
10 wise.

11 **§3. RULES OF CONSTRUCTION**

12 (a) This Compact shall not be construed to displace
13 existing Federal milk marketing orders or State dairy reg-
14 ulation in the region but to supplement them. In the event
15 some or all Federal orders in the region are discontinued,
16 the Compact shall be construed to provide the Commission
17 the option to replace them with 1 or more Commission
18 marketing orders pursuant to this Compact.

19 (b) This Compact shall be construed liberally in order
20 to achieve the purposes and intent enunciated in section
21 1. It is the intent of this Compact to establish a basic
22 structure by which the Commission may achieve those pur-
23 poses through the application, adaptation and develop-
24 ment of the regulatory techniques historically associated
25 with milk marketing and to afford the Commission broad

1 flexibility to devise regulatory mechanisms to achieve the
2 purposes of this Compact. In accordance with this intent,
3 the technical terms which are associated with market
4 order regulation and which have acquired commonly un-
5 derstood general meanings are not defined herein but the
6 Commission may further define the terms used in this
7 Compact and develop additional concepts and define addi-
8 tional terms as it may find appropriate to achieve its pur-
9 poses.

10 ARTICLE III. COMMISSION ESTABLISHED

11 **§4. COMMISSION ESTABLISHED**

12 There is hereby created a Commission to administer
13 the Compact, composed of delegations from each State in
14 the region. A delegation shall include not less than 3 nor
15 more than 5 persons. Each delegation shall include at
16 least 1 dairy farmer who is engaged in the production of
17 milk at the time of appointment or reappointment, and
18 1 consumer representative. Delegation members shall be
19 residents and voters of, and subject to such confirmation
20 process as is provided for in, the appointing State. Delega-
21 tion members shall serve no more than 3 consecutive
22 terms with no single term of more than 4 years, and be
23 subject to removal for cause. In all other respects, delega-
24 tion members shall serve in accordance with the laws of
25 the State represented. The compensation, if any, of the

1 members of a State delegation shall be determined and
2 paid by each State, but their expenses shall be paid by
3 the Commission. Each State delegation shall be entitled
4 to 1 vote in the conduct of the Commission's affairs.

5 **§5. VOTING REQUIREMENTS**

6 All actions taken by the Commission, except for the
7 establishment or termination of an over-order price or
8 Commission marketing order, and the adoption, amend-
9 ment or rescission of the Commission's bylaws, shall be
10 by majority vote of the delegations present. Establishment
11 or termination of an over-order price or Commission mar-
12 keting order shall require at least a two-thirds vote of the
13 delegations present. The establishment of a regulated area
14 which covers all or part of a participating State shall re-
15 quire also the affirmative vote of that State's delegation.
16 A majority of the delegations from the participating States
17 shall constitute a quorum for the conduct of the Commis-
18 sion's business.

19 **§6. ADMINISTRATION AND MANAGEMENT**

20 (a) The Commission shall elect annually from among
21 the members of the participating State delegations a
22 chairperson, a vice-chairperson, and a treasurer. The
23 Commission shall appoint an executive director and fix his
24 or her duties and compensation. The executive director
25 shall serve at the pleasure of the Commission, and, to-

1 gether with the treasurer, shall be bonded in an amount
2 determined by the Commission. The Commission may es-
3 tablish through its bylaws an executive committee com-
4 posed of 1 member elected by each delegation.

5 (b) The Commission shall adopt bylaws for the con-
6 duct of its business by a two-third vote, and shall have
7 the power by the same vote to amend and rescind these
8 bylaws. The Commission shall publish its bylaws in con-
9 venient form with the appropriate agency or officer in each
10 of the participating States. The bylaws shall provide for
11 appropriate notice to the delegations of all Commission
12 meetings and hearings and of the business to be trans-
13 acted at such meetings or hearings. Notice also shall be
14 given to other agencies or officers of participating States
15 as provided by the laws of those States.

16 (c) The Commission shall file an annual report with
17 the Secretary of Agriculture of the United States, and
18 with each of the participating States by submitting copies
19 to the Governor, both houses of the legislature, and the
20 head of the State department having responsibilities for
21 agriculture.

22 (d) In addition to the powers and duties elsewhere
23 prescribed in this Compact, the Commission shall have the
24 power:

1 (1) to sue and be sued in any State or Federal
2 court;

3 (2) to have a seal and alter the same at pleas-
4 ure;

5 (3) to acquire, hold, and dispose of real and
6 personal property by gift, purchase, lease, license, or
7 other similar manner, for its corporate purposes;

8 (4) to borrow money and to issue notes, to pro-
9 vide for the rights of the holders thereof and to
10 pledge the revenue of the Commission a security
11 therefor, subject to the provisions of section 18 of
12 this Compact;

13 (5) to appoint such officers, agents, and em-
14 ployees as it may deem necessary, prescribe their
15 powers, duties, and qualifications; and

16 (6) to create and abolish such offices, employ-
17 ments, and positions as it deems necessary for the
18 purposes of the Compact and provide for the re-
19 moval, term, tenure, compensation, fringe benefits,
20 pension, and retirement rights of its officers and em-
21 ployees. The Commission may also retain personal
22 services on a contract basis.

23 **§ 7. RULEMAKING POWER**

24 In addition to the power to promulgate a Compact
25 over-order price or Commission marketing orders as pro-

1 vided by this Compact, the Commission is further empow-
2 ered to make and enforce such additional rules and regula-
3 tions as it deems necessary to implement any provisions
4 of this Compact, or to effectuate in any other respect the
5 purposes of this Compact.

6 ARTICLE IV. POWERS OF THE COMMISSION

7 **§8. POWERS TO PROMOTE REGULATORY UNI-**
8 **FORMITY, SIMPLICITY, AND INTER-**
9 **STATE COOPERATION**

10 The Commission is hereby empowered to:

11 (1) Investigate or provide for investigations or
12 research projects designed to review the existing
13 laws and regulations of the participating States, to
14 consider their administration and costs, to measure
15 their impact on the production and marketing of
16 milk and their effects on the shipment of milk and
17 milk products within the region.

18 (2) Prepare and transmit to the participating
19 States model dairy laws and regulations dealing with
20 the inspection of farms and plants, sanitary codes,
21 labels for dairy products and their imitations, stand-
22 ards for dairy products, license standards, producer
23 security programs, and fair trade laws.

24 (3) Study and recommend to the participating
25 States joint or cooperative programs for the admin-

1 istration of the dairy laws and regulations and to
2 prepare estimates of cost savings and benefits of
3 such programs.

4 (4) Encourage the harmonious relationships be-
5 tween the various elements in the industry for the
6 solution of their material problems. Conduct sympo-
7 siums or conferences designed to improve industry
8 relations, or a better understanding of problems.

9 (5) Prepare and release periodic reports on ac-
10 tivities and results of the Commission's efforts to
11 the participating States.

12 (6) Review the existing marketing system for
13 milk and milk products and recommend changes in
14 the existing structure for assembly and distribution
15 of milk which may assist, improve, or promote more
16 efficient assembly and distribution of milk.

17 (7) Investigate costs and charges for producing,
18 hauling, handling, processing, distributing, selling,
19 and for all other services performed with respect to
20 milk.

21 (8) Examine current economic forces affecting
22 producers, probable trends in production and con-
23 sumption, the level of dairy farm prices in relation
24 to costs, the financial conditions of dairy farmers,

1 and the need for an emergency order to relieve criti-
2 cal conditions on dairy farms.

3 **§9. EQUITABLE FARM PRICES**

4 (a) The powers granted in this section and section
5 10 shall apply only to the establishment of a Compact
6 over-order price, so long as Federal milk marketing orders
7 remain in effect in the region. In the event that any or
8 all such orders are terminated, this Article shall authorize
9 the Commission to establish 1 or more Commission mar-
10 keting orders, as herein provided, in the region or parts
11 thereof as defined in the order.

12 (b) A Compact over-order price established pursuant
13 to this section shall apply only to Class I milk. Such over-
14 order price shall not exceed \$1.50 per gallon. Beginning
15 in 1990, and using that year as a base, the foregoing
16 \$1.50 per gallon maximum shall be adjusted annually by
17 the rate of change in the Consumer Price Index as re-
18 ported by the Bureau of Labor Statistics of the United
19 States Department of Labor. For purposes of the pooling
20 and equalization of an over-order price, the value of milk
21 used in other use classifications shall be calculated at the
22 appropriate class price established pursuant to the appli-
23 cable Federal order or State dairy regulation and the value
24 of unregulated milk shall be calculated in relation to the
25 nearest prevailing class price in accordance with and sub-

1 ject to such adjustments as the Commission may prescribe
2 in regulations.

3 (c) A Commission marketing order shall apply to all
4 classes and uses of milk.

5 (d) The Commission is hereby empowered to establish
6 the minimum price for milk to be paid by pool plants, par-
7 tially regulated plants, and all other handlers receiving
8 milk from producers located in a regulated area. This
9 price shall be established either as a Compact over-order
10 price or by 1 or more Commission marketing orders.
11 Whenever such a price has been established by either type
12 of regulation, the legal obligation to pay such price shall
13 be determined solely by the terms and purpose of the regu-
14 lation without regard to the situs of the transfer of title,
15 possession, or any other factors not related to the pur-
16 poses of the regulation and this Compact. Producer-han-
17 dlers as defined in an applicable Federal market order
18 shall not be subject to a Compact over-order price. The
19 Commission shall provide for similar treatment of pro-
20 ducer-handlers under Commission marketing orders.

21 (e) In determining the price, the Commission shall
22 consider the balance between production and consumption
23 of milk and milk products in the regulated area, the costs
24 of production including, but not limited to the price of
25 feed, the cost of labor including the reasonable value of

1 the producer's own labor and management, machinery ex-
2 pense, and interest expense, the prevailing price for milk
3 outside the regulated area, the purchasing power of the
4 public and the price necessary to yield a reasonable return
5 to the producer and distributor.

6 (f) When establishing a Compact over-order price, the
7 Commission shall take such action as necessary and fea-
8 sible to ensure that the over-order price does not create
9 an incentive for producers to generate additional supplies
10 of milk.

11 (g) The Commission shall whenever possible enter
12 into agreements with State or Federal agencies for ex-
13 change of information or services for the purpose of reduc-
14 ing regulatory burden and cost of administering the Com-
15 pact. The Commission may reimburse other agencies for
16 the reasonable cost of providing these services.

17 **§ 10. OPTIONAL PROVISIONS FOR PRICING**
18 **ORDER**

19 Regulations establishing a Compact over-order price
20 or a Commission marketing order may contain, but shall
21 not be limited to, any of the following:

22 (1) Provisions classifying milk in accordance
23 with the form in which or purpose for which it is
24 used, or creating a flat pricing program.

1 (2) With respect to a Commission marketing
2 order only, provisions establishing or providing a
3 method for establishing separate minimum prices for
4 each use classification prescribed by the Commis-
5 sion, or a single minimum price for milk purchased
6 from producers or associations of producers.

7 (3) With respect to an over-order minimum
8 price, provisions establishing or providing a method
9 for establishing such minimum price for Class I
10 milk.

11 (4) Provisions for establishing either an over-
12 order price or a Commission marketing order may
13 make use of any reasonable method for establishing
14 such price or prices including flat pricing and for-
15 mula pricing. Provision may also be made for loca-
16 tion adjustments, zone differentials, and for competi-
17 tive credits with respect to regulated handlers who
18 market outside the regulated area.

19 (5) Provisions for the payment to all producers
20 and associations of producers delivering milk to all
21 handlers of uniform prices for all milk so delivered,
22 irrespective of the uses made of such milk by the in-
23 dividual handler to whom it is delivered, or for the
24 payment of producers delivering milk to the same

1 handler of uniform prices for all milk delivered by
2 them.

3 (A) With respect to regulations establish-
4 ing a Compact over-order price, the Commission
5 may establish 1 equalization pool within the
6 regulated area for the sole purpose of equalizing
7 returns to producers throughout the regulated
8 area.

9 (B) With respect to any Commission mar-
10 keting order, as defined in section 2, subdivi-
11 sion 9, which replaces 1 or more terminated
12 Federal orders or State dairy regulation, the
13 marketing area of now separate State or Fed-
14 eral orders shall not be merged without the af-
15 firmative consent of each State, voting through
16 its delegation, which is partly or wholly included
17 within any such new marketing area.

18 (6) Provisions requiring persons who bring
19 Class I milk into the regulated area to make com-
20 pensatory payments with respect to all such milk to
21 the extent necessary to equalize the cost of milk pur-
22 chased by handlers subject to a Compact over-order
23 price or Commission marketing order. No such pro-
24 visions shall discriminate against milk producers
25 outside the regulated area. The provisions for com-

1 pensatory payments may require payment of the dif-
2 ference between the Class I price required to be paid
3 for such milk in the State of production by a Fed-
4 eral milk marketing order or State dairy regulation
5 and the Class I price established by the Compact
6 over-order price or Commission marketing order.

7 (7) Provisions specially governing the pricing
8 and pooling of milk handled by partially regulated
9 plants.

10 (8) Provisions requiring that the account of any
11 person regulated under a Compact over-order price
12 shall be adjusted for any payments made to or re-
13 ceived by such persons with respect to a producer
14 settlement fund of any Federal or State milk mar-
15 keting order or other State dairy regulation within
16 the regulated area.

17 (9) Provisions requiring the payment by han-
18 dlers of an assessment to cover the costs of the ad-
19 ministration and enforcement of such order pursu-
20 ant to Article VII, section 18(a).

21 (10) Provisions for reimbursement to partici-
22 pants of the Women, Infants and Children Special
23 Supplemental Food Program of the United States
24 Child Nutrition Act of 1966.

1 (11) Other provisions and requirements as the
2 Commission may find are necessary or appropriate
3 to effectuate the purposes of this Compact and to
4 provide for the payment of fair and equitable mini-
5 mum prices to producers.

6 ARTICLE V. RULEMAKING PROCEDURE

7 **§ 11. RULEMAKING PROCEDURE**

8 Before promulgation of any regulations establishing
9 a Compact over-order price or Commission marketing
10 order, including any provision with respect to milk supply
11 under section 9(f), or amend thereof, as provided in Arti-
12 cle IV, the Commission shall conduct an informal rule-
13 making proceeding to provide interested persons with an
14 opportunity to present data and views. Such rulemaking
15 proceeding shall be governed by section 4 of the Federal
16 Administrative Procedure Act, as amended (5 U.S.C.
17 553). In addition, the Commission shall, to the extent
18 practicable, publish notice of rulemaking proceedings in
19 the official register of each participating State. Before the
20 initial adoption of regulations establishing a Compact
21 over-order price or a Commission marketing order and
22 thereafter before any amendment with regard to prices or
23 assessments, the Commission shall hold a public hearing.
24 The Commission may commence a rulemaking proceeding
25 on its own initiative or may in its sole discretion act upon

1 the petition of any person including individual milk pro-
2 ducers, any organization of milk producers or handlers,
3 general farm organizations, consumer or public interest
4 groups, and local, State, or Federal officials.

5 **§ 12. FINDINGS AND REFERENDUM**

6 (a) In addition to the concise general statement of
7 basis and purpose required by section 4(b) of the Federal
8 Administrative Procedure Act, as amended (5 U.S.C.
9 553(c)), the Commission shall make findings of fact with
10 respect to:

11 (1) Whether the public interest will be served
12 by the establishment of minimum milk prices to
13 dairy farmers under Article IV.

14 (2) What level of prices will assure that produc-
15 ers receive a price sufficient to cover their costs of
16 production and will elicit an adequate supply of milk
17 for the inhabitants of the regulated area and for
18 manufacturing purposes.

19 (3) Whether the major provisions of the order,
20 other than those fixing minimum milk prices, are in
21 the public interest and are reasonably designed to
22 achieve the purposes of the order.

23 (4) Whether the terms of the proposed regional
24 order or amendment are approved by producers as
25 provided in section 13.

1 **§ 13. PRODUCER REFERENDUM**

2 (a) For the purpose of ascertaining whether the issu-
3 ance or amendment of regulations establishing a Compact
4 over-order price or a Commission marketing order, includ-
5 ing any provision with respect to milk supply under section
6 9(f), is approved by producers, the Commission shall con-
7 duct a referendum among producers. The referendum
8 shall be held in a timely manner, as determined by regula-
9 tion of the Commission. The terms and conditions of the
10 proposed order or amendment shall be described by the
11 Commission in the ballot used in the conduct of the ref-
12 erendum, but the nature, content, or extent of such de-
13 scription shall not be a basis for attacking the legality of
14 the order or any action relating thereto.

15 (b) An order or amendment shall be deemed approved
16 by producers if the Commission determines that it is ap-
17 proved by at least $\frac{2}{3}$ of the voting producers who, during
18 a representative period determined by the Commission,
19 have been engaged in the production of milk the price of
20 which would be regulated under the proposed order or
21 amendment.

22 (c) For purposes of any referendum, the Commission
23 shall consider the approval or disapproval by any coopera-
24 tive association of producers, qualified under the provi-
25 sions of the Act of Congress of February 18, 1922, as
26 amended, known as the Capper-Volstead Act, bona fide

1 engaged in marketing milk, or in rendering services for
2 or advancing the interests of producers of such commod-
3 ity, as the approval or disapproval of the producers who
4 are members or stockholders in, or under contract with,
5 such cooperative association of producers, except as pro-
6 vided in paragraph (1) hereof and subject to the provisions
7 of paragraphs (2) through (5) hereof.

8 (1) No cooperative which has been formed to
9 act as a common marketing agency for both coopera-
10 tives and individual producers shall be qualified to
11 block vote for either.

12 (2) Any cooperative which is qualified to block
13 vote shall, before submitting its approval or dis-
14 approval in any referendum, give prior written notice
15 to each of its members as to whether and how it in-
16 tends to cast its vote. The notice shall be given in
17 a timely manner as established, and in the form pre-
18 scribed, by the Commission.

19 (3) Any producer may obtain a ballot from the
20 Commission in order to register approval or dis-
21 approval of the proposed order.

22 (4) A producer who is a member of a coopera-
23 tive which has provided notice of its intent to ap-
24 prove or not to approve a proposed order, and who
25 obtains a ballot and with such ballot expresses his

1 approval or disapproval of the proposed order, shall
2 notify the Commission as to the name of the cooper-
3 ative of which he or she is a member, and the Com-
4 mission shall remove such producer's name from the
5 list certified by such cooperative with its corporate
6 vote.

7 (5) In order to ensure that all milk producers
8 are informed regarding a proposed order, the Com-
9 mission shall notify all milk producers that an order
10 is being considered and that each producer may reg-
11 ister his approval or disapproval with the Commis-
12 sion either directly or through his or her cooperative.

13 **§14. TERMINATION OF OVER-ORDER PRICE OR**
14 **MARKETING ORDER**

15 (a) The Commission shall terminate any regulations
16 establishing an over-order price or Commission marketing
17 order issued under this Article whenever it finds that such
18 order or price obstructs or does not tend to effectuate the
19 declared policy of this Compact.

20 (b) The Commission shall terminate any regulations
21 establishing an over-order price or a Commission market-
22 ing order issued under this Article whenever it finds that
23 such termination is favored by a majority of the producers
24 who, during a representative period determined by the
25 Commission, have been engaged in the production of milk

1 the price of which is regulated by such order; but such
2 termination shall be effective only if announced on or be-
3 fore such date as may be specified in such marketing
4 agreement or order.

5 (c) The termination or suspension of any order or
6 provision thereof, shall not be considered an order within
7 the meaning of this Article and shall require no hearing,
8 but shall comply with the requirements for informal rule-
9 making prescribed by section 4 of the Federal Administra-
10 tive Procedure Act, as amended (5 U.S.C. 553).

11 ARTICLE VI. ENFORCEMENT

12 § 15. RECORDS, REPORTS, ACCESS TO PREMISES

13 (a) The Commission may by rule and regulation pre-
14 scribe recordkeeping and reporting requirements for all
15 regulated persons. For purposes of the administration and
16 enforcement of this Compact, the Commission is author-
17 ized to examine the books and records of any regulated
18 person relating to his or her milk business and for that
19 purpose, the Commission's property designated officers,
20 employees, or agents shall have full access during normal
21 business hours to the premises and records of all regulated
22 persons.

23 (b) Information furnished to or acquired by the Com-
24 mission officers, employees, or its agents pursuant to this
25 section shall be confidential and not subject to disclosure

1 except to the extent that the Commission deems disclosure
2 to be necessary in any administrative or judicial proceed-
3 ing involving the administration or enforcement of this
4 Compact, an over-order price, a Compact marketing order,
5 or other regulations of the Commission. The Commission
6 may promulgate regulations further defining the confiden-
7 tiality of information pursuant to this section. Nothing in
8 this section shall be deemed to prohibit (1) the issuance
9 of general statements based upon the reports of a number
10 of handlers, which do not identify the information fur-
11 nished by any person, or (2) the publication by direction
12 of the Commission of the name of any person violating
13 any regulation of the Commission, together with a state-
14 ment of the particular provisions violated by such person.

15 (c) No officer, employee, or agent of the Commission
16 shall intentionally disclose information, by inference or
17 otherwise, which is made confidential pursuant to this sec-
18 tion. Any person violating the provisions of this section
19 shall upon conviction be subject to a fine of not more than
20 \$1,000 or to imprisonment for not more than 1 year, or
21 both, and shall be removed from office. The Commission
22 shall refer any allegation of a violation of this section to
23 the appropriate State enforcement authority or United
24 States Attorney.

1 **§ 16. SUBPOENA, HEARINGS, AND JUDICIAL RE-**
2 **VIEW**

3 (a) The Commission is hereby authorized and empow-
4 ered by its members and its properly designated officers
5 to administer oaths and issue subpoenas throughout all
6 signatory States to compel the attendance of witnesses
7 and the giving of testimony and the production of other
8 evidence.

9 (b) Any handler subject to an order may file a written
10 petition with the Commission stating that any such order
11 or any provision of any such order or any obligation im-
12 posed in connection therewith is not in accordance with
13 law and praying for a modification thereof or to be ex-
14 empted therefrom. He shall thereupon be given an oppor-
15 tunity for a hearing upon such petition, in accordance with
16 regulations made by the Commission. After such hearing,
17 the Commission shall make a ruling upon the prayer of
18 such petition which shall be final, if in accordance with
19 law.

20 (c) The district courts of the United States in any
21 district in which such handler is an inhabitant, or has his
22 principal place of business, are hereby vested with jurisdic-
23 tion in equity to review such ruling, provided a bill in eq-
24 uity for that purpose is filed within 30 days from the date
25 of the entry of such ruling. Service of process in such pro-
26 ceedings may be had upon the Commission by delivering

1 to it a copy of the bill of complaint. If the court determines
2 that such ruling is not in accordance with law, it shall
3 remand such proceedings to the Commission with direc-
4 tions either (1) to make such ruling as the court shall de-
5 termine to be in accordance with law, or (2) to take such
6 further proceedings as, in its opinion, the law requires.
7 The pendency of proceedings instituted pursuant to this
8 subdivision shall not impede, hinder, or delay the Commis-
9 sion from obtaining relief pursuant to section 17. Any pro-
10 ceedings brought pursuant to section 17 (except where
11 brought by way of counterclaim in proceedings instituted
12 pursuant to this section) shall abate whenever a final de-
13 cree has been rendered in proceedings between the same
14 parties, and covering the same subject matter, instituted
15 pursuant to this section.

16 **§17. ENFORCEMENT WITH RESPECT TO HAN-**
17 **DLERS**

18 (a) Any violation by a handler of the provisions of
19 regulations establishing an over-order price or a Commis-
20 sion marketing order, or other regulations adopted pursu-
21 ant to this Compact shall:

22 (1) Constitute a violation of the laws of each of
23 the signatory States. Such violation shall render the
24 violator subject to a civil penalty in an amount as
25 may be prescribed by the laws of each of the partici-

1 pating States, recoverable in any State or Federal
2 court of competent jurisdiction. Each day such viola-
3 tion continues shall constitute a separate violation.

4 (2) Constitute grounds for the revocation of li-
5 cense or permit to engage in the milk business under
6 the applicable laws of the participating States.

7 (b) With respect to handlers, the Commission shall
8 enforce the provisions of this Compact, regulations estab-
9 lishing an over-order price, a Commission marketing order
10 or other regulations adopted hereunder by—

11 (1) commencing an action for legal or equitable
12 relief brought in the name of the Commission in any
13 State or Federal court of competent jurisdiction; or

14 (2) with the agreement of the appropriate State
15 agency of a participating State, by referral to the
16 State agency for enforcement by judicial or adminis-
17 trative remedy.

18 (c) With respect to handlers, the Commission may
19 bring an action for injunction to enforce the provisions
20 of this Compact or the order or regulations adopted there-
21 under without being compelled to allege or prove that an
22 adequate remedy of law does not exist.

ARTICLE VII. FINANCE

§ 18. FINANCE OF START-UP AND REGULAR COSTS

(a) To provide for its start-up costs, the Commission may borrow money pursuant to its general power under section 6, subdivision (d), paragraph (4). In order to finance the costs of administration and enforcement of this Compact, including pay back of start-up costs, the Commission is hereby empowered to collect an assessment from each handler who purchases milk from producers within the region. If imposed, this assessment shall be collected on a monthly basis for up to 1 year from the date the Commission convenes, in an amount not to exceed one-tenth of 1 percent of the applicable Federal market order blend price per hundredweight of milk purchased from producers during the period of the assessment. The initial assessment may apply to the projected purchases of handlers for the 2-month period following the date the Commission convenes. In addition, if regulations establishing an over-order price or a Compact marketing order are adopted, they may include an assessment for the specific purpose of their administration. These regulations shall provide for establishment of a reserve for the Commission's ongoing operating expenses.

(b) The Commission shall not pledge the credit of any participating State or of the United States. Notes issued

1 by the Commission and all other financial obligations in-
2 curred by it, shall be its sole responsibility and no partici-
3 pating State or the United States shall be liable therefor.

4 **§ 19. AUDIT AND ACCOUNTS**

5 (a) The Commission shall keep accurate accounts of
6 all receipts and disbursements, which shall be subject to
7 the audit and accounting procedures established under its
8 rules. In addition, all receipts and disbursements of funds
9 handled by the Commission shall be audited yearly by a
10 qualified public accountant and the report of the audit
11 shall be included in and become part of the annual report
12 of the Commission.

13 (b) The accounts of the Commission shall be open
14 at any reasonable time for inspection by duly constituted
15 officers of the participating States and by any persons au-
16 thorized by the Commission.

17 (c) Nothing contained in this Article shall be con-
18 strued to prevent Commission compliance with laws relat-
19 ing to audit or inspection of accounts by or on behalf of
20 any participating State or of the United States.

21 ARTICLE VIII. ENTRY INTO FORCE;

22 ADDITIONAL MEMBERS AND WITHDRAWAL

23 **§ 20. ENTRY INTO FORCE; ADDITIONAL MEMBERS**

24 The Compact shall enter into force effective when en-
25 acted into law by any 3 States of the group of States com-

1 posed of Connecticut, Delaware, Maine, Maryland, Massa-
2 chusetts, New Hampshire, New Jersey, New York, Penn-
3 sylvania, Rhode Island, Vermont, and Virginia, and when
4 the consent of Congress has been obtained. This Compact
5 shall also be open to States which are contiguous to any
6 of the named States and open to States which are contig-
7 uous to participating States.

8 **§ 21. WITHDRAWAL FROM COMPACT**

9 Any participating State may withdraw from this
10 Compact by enacting a statute repealing the same, but
11 no such withdrawal shall take effect until 1 year after no-
12 tice in writing of the withdrawal is given to the Commis-
13 sion and the Governors of all other participating States.
14 No withdrawal shall affect any liability already incurred
15 by or chargeable to a party State prior to the time of such
16 withdrawal.

17 **§ 22. SEVERABILITY**

18 If any part or provision of this Compact is adjudged
19 invalid by any court, such judgment shall be confined in
20 its operation to the part or provision directly involved in
21 the controversy in which such judgment shall have been
22 rendered and shall not affect or impair the validity of the
23 remainder of this Compact.

1 **SEC. 2. RESERVATION OF RIGHTS.**

2 (a) IN GENERAL.—The right to alter, amend, or re-
3 peal this Act is expressly reserved.

4 (b) COMPENSATION REQUIREMENT.—When an over-
5 order price is in effect, the Commission established in the
6 compact set out in section 1 shall compensate the Com-
7 modity Credit Corporation before the end of the fiscal year
8 for the cost of any increased Commodity Credit Corpora-
9 tion dairy purchases which result from projected increased
10 fluid milk production for that fiscal year within the Com-
11 pact region in excess of the national average rate of in-
12 crease.

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